



June 25, 2015

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RE: June 12, 2015 Draft of Expedited Model Water Efficient Landscape Ordinance Update

Dear Julie:

The California Landscape Contractors Association has always supported the Model Ordinance's overall approach to landscape water conservation, going all the way back to the Water Conservation and Landscape Act of 1990.

We especially liked its predominantly performance approach, which encourages creativity and variety as well as technological innovation. We also believed that the landscapes it envisioned—those with an average plant factor of 0.5—were reasonable. Landscapes with a possible mix of 1/3 low-water-use plants, 1/3 medium-water-use plants, and 1/3 high-water-use plants seemed to strike an appropriate balance between the need to save water and maintaining quality of life in our state. Furthermore, we were convinced that both the original Model Ordinance and the 2009 update were grounded in defensible science.

This brings us to the proposed update. We know the state is in a drought emergency. We know that more must be done to cut landscape water use. And, we're aware that Governor Brown directed DWR to update the Model Ordinance through expedited regulation to increase water efficiency standards.

However, after reviewing the June 12 public draft, we are concerned that the Model Ordinance may be evolving into an overly strict and complicated document that is becoming dauntingly difficult to understand, comply with, and enforce. If this proposed update is actually enforced, it would substantially increase the cost of installing landscapes. More likely, though, it will not be enforced, especially in the residential home improvement market. An unevenly enforced Model Ordinance is a big problem for our members, who are all licensed contractors. Our mind set is to comply with the law, but unfortunately we are competing with a vast underground economy with a very different mind set.

The following are some of the proposed changes to the document that in our view are problematic. Some of them are not problematic in and of themselves, and we don't deny that they are well intentioned. But when their weight is added to all of the other provisions in the Model Ordinance, they threaten to sink it.

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Purpose Language

Do we really need all of that hastily thrown together purpose language in an expedited update? What exactly are “regenerative landscape systems that are planned, designed, installed, managed, and maintained with the watershed approach?” If DWR must add terms like “regenerative landscape systems” and “watershed approach,” we suggest they be defined in the terms section, as we do not believe such terms are commonly understood.

Judging especially from the purpose language, it appears that the Model Ordinance, once a landscape water efficiency regulation, is evolving into a sustainable landscaping regulation. This may be a good thing, but we question the need to make these changes in a hurried response to a drought emergency.

Square Footage Applicability

The new square footage parameters—500 square feet for new construction projects and 2500 for rehabilitated landscape projects—highlight the biggest problem with the proposed update. The original model ordinance was intended for large landscapes. Compliance was expensive, but the cost was justified by the large amounts of water to be saved and by the hefty construction contracts involved. Requiring everything that goes into a landscape documentation package and certificate of completion for a tiny 500-square foot landscape doesn't make economic sense. Of course it could be argued that most owners, especially those in the home improvement realm, won't have to comply with the requirement or would be able to circumvent it quite easily. If that is indeed the case, whom are we fooling about the Model Ordinance making a difference?

We also do not understand why the square footage applicability standard for new construction is 500 square feet while the one for rehabilitated projects is five times that area. What is the logic behind the different treatment?

Average Plant Factor Targets

The average plant factor targets, 0.425 for residential areas and 0.37 for other areas, are a significant change from what was considered reasonable in the past—0.5.

Yes, the state is facing a drought emergency. The honest truth, however, is that these targets make us nervous. We can't help but wonder if the drought is being used to make permanent changes in what California's landscapes will look like. Construction practices can be crucial in addressing long-term water efficiency challenges, but we do not believe they are the best way to address a hopefully temporary situation. We hope these targets will be reconsidered when the drought ends.

In addition, we can't think of many good reasons for setting different standards for residential and nonresidential properties. We feel it's generally best to keep the regulation as simple as possible and avoid making value judgments about who needs what kind of landscape.

Irrigation Efficiency Numbers

We are puzzled as to where the average irrigation efficiency figures, 0.85 for residential areas and 0.92 for nonresidential areas, came from. The current ordinance assumes an irrigation efficiency of only 0.71. In 2008, DWR issued a white paper on the ET adjustment factor that made a strong argument for increasing the irrigation efficiency number from the then 0.625 to the current 0.71. There is no such public rationale for the proposed numbers. Using the methodology in the white paper, we arrive at irrigation efficiency figures for the new average plant factor targets that are only slightly higher than 0.71.

Increasing the irrigation efficiency figures results in two problems. First of all, it establishes an impossible target, as several irrigation industry representatives pointed out in recent public meetings. Secondly, assuming that the target could not be met and that efficiencies actually would be closer to 0.71, the maximum applied water allowance would not support landscapes with the average plant factors that the Model Ordinance claims they can have. The average plant factors would have to be more like 0.29 and 0.36. These landscapes would be comprised of mostly low-water-use plants. If this is the intent with the proposed Model Ordinance, the state should be honest about it.

Unless the high irrigation efficiency figures can be justified, the solution to this problem is to be more generous with the ET adjustment factor numbers. If the adjustment factor numbers must be lowered from the current 0.7 to address new average plant factor targets, we suggest 0.5 for nonresidential landscapes and 0.6 for residential landscapes. If the plant factor targets for residential and nonresidential landscapes are made the same, as they have been in past, 0.55 would be a defensible adjustment factor for the duration of the drought. Such a budget would save a lot of water relative to the current update. The Building Standards Commission adopted that budget for most of the state's new landscapes on May 29. And several organizations, including CLCA, voiced support for the commission's decision as an emergency drought measure.

Precipitation Rate

The proposed update has a new precipitation rate requirement. The irrigation system would have to be designed and installed in such a manner that a precipitation rate of 1.0 inch per hour is not exceeded in any portion of the landscape.

We agree with the concerns of irrigation industry representatives who have pointed out that lower precipitation rates are at best a partial solution

to the runoff problem and that there are tradeoffs to consider, such as wind drift and evaporation.

While a precipitation rate maximum of some amount probably makes sense in a perfect world, we would like to remind DWR that the standard would add one more calculation to an already formidable list of things to document and plan check. Furthermore, the Model Ordinance already has quite a few provisions that are intended to prevent runoff, and the smaller water budget and average plant factor targets also will have that effect.

Incidentally, we find it odd that the irrigation audit requirement does not reinforce the precipitation rate requirement by specifically requiring that the report verify the rates. This is not an argument to change the irrigation audit requirement. It's simply an observation to illustrate our belief that the compliance and plan-checking ramifications of the update should be given careful consideration.

Performance of Model Ordinance Projects

We understand that DWR can't address this in the update itself, but we think it is time for some sophisticated studies on whether the Model Ordinance has made a difference to date. It won't be long before the Model Ordinance will have been in force for a quarter of a century. Is it working? Has all the expense been worth it? Instead of periodically ratcheting down the maximum applied water allowance and adding new landscape design and construction hurdles to the Model Ordinance, should California finally address the "elephant in the room"—conservation water pricing to encourage better irrigation scheduling practices as well as irrigation system upkeep?

Conclusion

We feel DWR should be vigilant in excluding any and all unnecessary provisions in the Model Ordinance because we may be approaching a point where the document is becoming too complicated. It would be a shame if the Model Ordinance fell under its own weight, for it would likely be replaced by a proscriptive regulation that precludes creativity and variety and discourages technological innovation.

CLCA

CLCA is a nonprofit trade association of licensed landscape and landscape-related contractors. Also included among our approximately 2000 members are landscape suppliers, landscape architects and designers, public officials, educators, and students.

Yours sincerely,



LARRY ROHLFES, CAE
Assistant Executive Director

June 25, 2015
Proposed Model Ordinance Update
Page 5

cc: Governor Edmund G. Brown, Jr.
Senator Fran Pavley
Assemblymember Marc Levine
CLCA Executive Director Sandra Giarde, CAE
CLCA Board of Directors
CLCA Resource Management Committee
CLCA Legislation Committee

